

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

Roberta Cornist,

Plaintiff,

v.

Credit Acceptance Corporation,

Defendant.

:
:
:
:
:
:
:
:
:
:
:
:

Civil Action No.: 2:15-cv-10913

DEMAND FOR JURY TRIAL

COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, Roberta Cornist, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. ("TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Roberta Cornist ("Plaintiff"), is an adult individual residing in Cincinnati, Ohio, and is a "person" as the term is defined by 47 U.S.C. § 153(39).
4. Defendant Credit Acceptance Corporation ("CAC"), is a Michigan business entity with an address of 25505 West Twelve Mile Road, Suite 3000 Southfield, Michigan 48034, and is a "person" as the term is defined by 47 U.S.C. § 153(39).
5. CAC at all times acted by and through one or more of the agents.

FACTS

6. Within the last year, CAC contacted Plaintiff in an attempt to collect a consumer debt allegedly owed by Plaintiff.

7. At all times mentioned herein, CAC called Plaintiff's cellular telephone, number 513-xxx-0561, by using an automated telephone dialer system ("ATDS") and an artificial or prerecorded voice.

8. When Plaintiff answered calls from CAC, she was met with a prerecorded message stating to hold for the next available representative.

9. Plaintiff never provided her cellular telephone number to CAC and never provided her consent to be contacted on her cellular telephone.

10. Furthermore, during a live conversation with CAC, Plaintiff requested that all communication to her cellular telephone number cease.

11. Despite the foregoing, CAC continued to call Plaintiff at an annoying and harassing rate.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Plaintiff never provided her cellular telephone number to CAC and never provided her consent to be contacted on her cellular telephone.

14. Without prior consent CAC contacted the Plaintiff by means of automatic telephone calls and prerecorded messages at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

15. CAC continued to placed automated calls to Plaintiff's cellular telephone knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

16. The telephone number called by CAC was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

17. The calls from CAC to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

18. CAC's telephone system has the capacity to store numbers in a random and sequential manner.

19. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

20. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 12, 2015

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
Attorney for Plaintiff Roberta Cornist
LEMBERG LAW, L.L.C.
1100 Summer Street
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (888) 953-6237
Email: slemberg@lemborglaw.com